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 Sanctuary Clothing LLC*

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

GOLD VALUE INTERNATIONAL
 TEXTILE, INC., a California Corporation,
 individually and doing business as “FIESTA
 FABRIC,”

Plaintiff,

- against -

SANCTUARY CLOTHING, LLC, a
 California Limited Liability Company;
 AMAZON.COM, INC., a Washington
 Corporation; BLOOMINGDALE’S, INC., a
 New York Corporation; DILLARD’S, INC.,
 an Arkansas Corporation; MACY’S, INC., an
 Ohio Corporation; NORDSTROM, INC., a
 Washington Corporation; ZAPPOS IP, INC.,
 a Nevada Corporation; and DOES 1 through
 10,

Defendants.

Case No. 2:16-cv-00339-JAK-FFM

COUNTERCLAIM FOR
 DECLARATION OF U.S.
 COPYRIGHT REGISTRATION
 INVALIDITY

Judge: John A. Kronstadt
 Complaint Filed: January 15, 2016

Counterclaim Plaintiff, SANCTUARY CLOTHING, LLC (“SANCTUARY”), by and through undersigned counsel, hereby brings a counterclaim against Plaintiff and Counterclaim Defendant, GOLD VALUE INTERNATIONAL TEXTILE INC., d/b/a FIESTA FABRIC (“GOLD VALUE”) with respect to invalidity of U.S. Copyright Registration No. V Au 1-151-509 (the “509 Registration”).

JURISDICTION AND VENUE

1. This is a counterclaim for declaratory relief pursuant to 28 U.S.C. §§ 2201, 2202. This Court has jurisdiction over the counterclaim pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

PARTIES

3. Counterclaimant SANCTUARY is a limited liability company organized and existing under the laws of the State of California, having a principal place of business located at 3611 North San Fernando Boulevard, Burbank, California, 91505.

4. Upon information and belief, Counterclaim Defendant GOLD VALUE is a corporation organized and existing under the laws of the State of California, having a principal place of business located at 1142 East 12th Street, Los Angeles, California, 90021.

**COUNTERCLAIM FOR DECLARATION OF
U.S. COPYRIGHT REGISTRATION INVALIDITY**

5. An actual case or controversy exists between the parties by virtue of the Complaint for copyright infringement filed by GOLD VALUE against SANCTUARY.

6. The basis of this controversy stems from GOLD VALUE’S assertion that SANCTUARY has infringed a certain two-dimensional design (the “Subject Design”). Specifically, GOLD VALUE alleges that the Subject Design is an original creation of GOLD VALUE and its design team and is, and at all times relevant to the Complaint has been, owned exclusively by GOLD VALUE, and that they have created, sold, manufactured, caused to be manufactured, and distributed garments comprised of fabrics featuring designs which are identical or substantially similar to the Subject Design.

7. GOLD VALUE’s infringement allegations against SANCTUARY are premised upon the ‘509 Registration.

8. Upon information and belief, the work registered under the ‘509 Registration is a collection of works of visual arts, including the Subject Design.

9. The ‘509 Registration purports to register a work unpublished at the time of the filing of the underlying application.

10. Upon information and belief, GOLD VALUE is not the original creator of one, some, or all of the works covered by the ‘509 Registration, including but not limited to the Subject Design.

1 11. The '509 Registration is invalid because GOLD VALUE is not the
2 original creator of one, some, or all of the works covered thereby, including, but
3 not limited to, the Subject Design.

4 12. Upon information and belief, GOLD VALUE is not the exclusive
5 owner of the copyrights in one, some, or all of the works covered by the '509
6 Registration, including but not limited to the Subject Design. Attached hereto at
7 Tab A is a copy of a letter from a third-party, Design Collection, Inc., dated
8 January 12, 2016, that claims ownership of the '509 Registration.

9 13. The '509 Registration is invalid because GOLD VALUE is not the
10 exclusive owner of the copyrights in one, some, or all of the works covered
11 thereby, including, but not limited to, the Subject Design.

12 14. Upon information and belief, one, some, or all of the works covered
13 by the '509 Registration, including but not limited to the Subject Design, are
14 composed of standard geometric figures and patterns, and thus are not subject to
15 copyright protection.

16 15. Upon information and belief, one, some, or all of the works covered
17 by the '509 Registration, including but not limited to the Subject Design, are
18 composed of symbols and/or designs used widely throughout the textile industry,
19 and thus are not subject to copyright protection.

16. The '509 Registration is invalid because one, some, or all of the works covered thereby are not subject to copyright protection, including, but not limited to, the Subject Design.

17. Upon information and belief, one, some, or all of the works covered by the ‘509 Registration, including but not limited to the Subject Design, were published at the time of the filing of the underlying application, and as a result, the ‘509 Registration is invalid for non-compliance with regulations prescribing conditions to register groups of works of visual arts, 37 C.F.R. § 202.3.

18. Accordingly, SANCTUARY seeks a judgment declaring the ‘509 Registration to be invalid, and an order directing the Registrar of Copyrights to cancel the ‘509 Registration.

19. SANCTUARY has no adequate remedy at law.

PRAYER FOR RELIEF ON COUNTERCLAIM

WHEREFORE, SANCTUARY respectfully requests that the Court enter judgment:

A. Declaring the ‘509 Registration to be invalid:

B. Issuing an order directing the Register of Copyrights to cancel the ‘509 Registration;

C. Awarding SANCTUARY its costs and reasonable attorney's fees pursuant to 17 U.S.C. § 505; and,

1 D. Providing such other and further relief as the Court deems just and
2 proper.

3 **JURY DEMAND**

4 SANCTUARY demands a trial by jury of all counts so triable.

5 Dated: Santa Monica, CA
6 March 14, 2016

7 Respectfully submitted,

8 s/ Daniel Lacy

9 Daniel Lacy (CABN: 283392)
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16 *Counsel for Defendant/Counterclaimant,*
17 *Sanctuary Clothing LLC*
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CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2016, the foregoing COUNTERCLAIM was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ Alexander Malbin